

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,	:	Case No. 3:12-cv-95
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
ITS FINANCIAL, LLC,	:	
TCA FINANCIAL, LLC, TAX TREE, LLC,:	:	
and FESUM OGBAZION,	:	
	:	
Defendants.	:	

**ORDER DENYING DEFENDANTS' MOTION FOR  
STAY OF INJUNCTION PENDING APPEAL (Doc. 147)**

This case is before the Court on Defendants' Motion for Stay of Injunction Pending Appeal. (Doc. 147). Defendants have also filed their Notice of Appeal. (Doc. 145).

This judge believes that the motion to stay is better resolved by the Court of Appeals.

The test for whether to impose a stay is determined by consideration of the same factors courts traditionally consider in evaluating whether to grant a preliminary injunction:

- (1) The likelihood that the party seeking the stay will prevail on the merits of the appeal;
- (2) The likelihood that the moving party will be irreparably harmed absent a stay;
- (3) The prospect that others will be harmed if the court grants the stay; and
- (4) The public interest in granting the stay.

*Michigan Coalition of Radioactive Materials Users, Inc. v. Griepentrog*, 945 F.2d 150, 153 (6th Cir. 1991) (citations omitted); *see also Employees International Union Local 1 v. Husted*, 698 F.3d 341, 343 (6th Cir. 2012).

Here, the Court acknowledges the likelihood that Defendants will be irreparably harmed if the Injunction is not stayed ... because it intentionally puts them out of business.

Nevertheless, others would be harmed if the Court granted the stay, as the Court has determined that Defendants rip off the United States Treasury and their customers, including many members of the working poor. Likewise, for the same reasons, the public interest would not be served – and in fact, would be harmed – by staying the Court’s decision.

Whether Defendants will prevail on appeal is a hard question for a trial judge to predict accurately. This Court is certain that its findings of fact are not clearly erroneous, developed from a written transcript of nine days of trial. Whether the Court’s remedy – which Defendants describe as “new law” – is sustainable upon appeal is not as easy a question.

Given that consideration of the four appropriate factors does not support a stay, the Court denies Defendants’ motion.

**IT IS SO ORDERED.**

Date: 11/12/13

s/ Timothy S. Black  
Timothy S. Black  
United States District Judge